IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE ELEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11956 of 2005

Between:

Gunda Satya Srinivasa Gopal,
S/o.Lakshmi Ganapathi Narasimha Rao,
R/o.Veeravaram, W.G.District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Bhimavaram, W.G.District.
2 The Regional Manager, W.G.Region, Eluru, W.G.District.
3 The Chairman - Cum- Managing Director, APSRTC, Musheerabad , Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to May be pleased to issue order or orders more particularly one in the nature of writ of mandamus declaring Proc.No.01/756(14)/2002-BVRM dt.20-02-2003 as illegal, arbitrary, unconstitutional and consequently direct the respondents to provide the job to the petitioner under bread winner scheme and pass such other or further orders.

Counsel for the Petitioner: MR.T.S.VENKATARAMANA

Counsel for the Respondent Nos.1 to 3: MR.R.MANMADHA REDDY (SC FOR APSRTC)

The Court at the stage of admission made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in not considering the case of the petitioner for appointment under “Bread Winner Scheme”.

2. The case of the petitioner is that his father worked as a Driver in the respondent Corporation and died on 04.02.2002 while he was in service leaving the petitioner and his mother behind him without any means of livelihood. Therefore, his mother made an application to the second respondent on 14.08.2002 seeking to provide employment to him on compassionate grounds. In the said representation, his mother specifically stated that his father served the respondent Corporation for 16 years and died in harness while he was in service and therefore, she sought for employment. But, however, the respondent passed the impugned order dated 20.02.2003 stating that there is a ban in the recruitment and a notification was also issued on 16.09.2002 directing the Officers of the Corporation not to entertain any fresh applications from the dependents of the deceased employees for appointment under “Bread Winner Scheme” after 16.09.2002 and therefore, the petitioner’s case cannot be considered for appointment under the said scheme and his mother was advised to prefer a claim for additional monetary benefits. Aggrieved by that, the petitioner has come up with the present writ petition.

3. At the time of hearing, the learned counsel for the petitioner contended that the petitioner’s mother made representation seeking appointment of the petitioner as early as on 14.08.2002 i.e., much before the notification issued by the respondent Corporation directing the Depot Managers not to entertain any fresh application. He further contended that the ban was relaxed in the year 2003. Therefore, even on that ground also the petitioner is entitled for being considered on compassionate grounds.

4. On the other hand, the learned standing counsel for the respondent Corporation sought to sustain the order and produced Circular No.PD-60/2003, dated 30.07.2003, under which, certain relaxation was granted for filling up of the SC/ST Backlog vacancies as well as to consider the eligible dependents of the employees died in harness for appointment against the sanctioned vacancies of Drivers Grade-II, Conductors Grade–II and shramik under Bread Winner Scheme. Therefore, under that scheme the petitioner’s case may be considered.

5. Heard both sides and considered the entire material available on record.

6. Admittedly, the petitioner's father worked as a driver in the respondent Corporation and died while he was in service. Therefore, the petitioner's mother made a representation on 14.08.2002 seeking employment to the petitioner. But, however, the said representation was rejected referring to the notification dated 16.09.2002, though the said notification has no application to the petitioner's case. As the representation of the petitioner's mother was much before the issuance of notification, dated 16.09.2002, banning the recruitment under Bread Winner Scheme, the rejection of the representation is illegal and unjust. Apart from that, in view of the Circular dated 30.07.2003, where the ban was relaxed with reference to the appointment made on compassionate grounds, the impugned order is liable to be set aside and the same is accordingly set aside directing the respondent Corporation to consider the case of the petitioner in accordance with seniority of the petitioner's application, which was made on 14.08.2002, and consider for appointment in any of the suitable post.

7. The writ petition is accordingly disposed of at the admission stage.

S.Ananda Reddy, J

Date:11.07.2005
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To

1 The Depot Manager, APSRTC, Bhimavaram, W.G.District.
2 The Regional Manager, W.G.Region, Eluru, W.G.District.
3 The Chairman - Cum- Managing Director, APSRTC, Musheerabad , Hyderabad.

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